

AO 243 (Rev. 5/85)

MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

<b>United States District Court</b>		District <b>PUERTO RICO</b>
Name of Movant <b>VICTOR MANUEL VALLE-LASSALLE</b>	Prisoner No. <b>16115-069</b>	Case No. <b>97-284-JAF</b> RECEIVED & FILED JAN 3 58 CLERK'S OFFICE U.S. DISTRICT COURT SAN JUAN, P.R.
Place of Confinement <b>FCC-USP 1, P.O. BOX 1033, COLEMAN, FL 33521-1033</b>		
<p>UNITED STATES OF AMERICA                      V. <b>VICTOR MANUEL VALLE-LASSALLE</b> (name under which convicted)</p>		

**MOTION**

- Name and location of court which entered the judgment of conviction under attack U.S.D.C./PR  
Fed. Bldg., 150 Chardon Ave., San Juan, P.R. 00919-1767
- Date of judgment of conviction September 6, 2001
- Length of sentence LIFE
- Nature of offense involved (all counts) 12 Counts 21 USC §846/841(a)(1) & 848(e) and  
18 USC §924(j) & 18 USC §2 and §1512(a)&(b)(1) Multiple-Drugs  
Conspiracy and Murder related to drug trafficking
- What was your plea? (Check one)
  - Not guilty ☐
  - Guilty ☒
  - Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

Plead Guilty to Counts One, Three, Four and Ten of the Second  
Superseding Indictment Pursuant to Plea-agreement under Rule 11  
(e)(1)(B) of the Fed. R. Crim. P.
- If you pleaded not guilty, what kind of trial did you have? (Check one)
  - Jury ☐
  - Judge only ☒
- Did you testify at the trial?  
Yes ☐ No ☒
- Did you appeal from the judgment of conviction?  
Yes ☐ No ☒

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9. If you did appeal, answer the following:

(a) Name of court N/A

(b) Result N/A

(c) Date of result N/A

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?

Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court N/A

(2) Nature of proceeding N/A

(3) Grounds raised N/A

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result N/A

(6) Date of result N/A

(b) As to any second petition, application or motion give the same information:

(1) Name of court None

(2) Nature of proceeding N/A

(3) Grounds raised None

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(4) Did you receive an evidentiary hearing on your petition, application or motion?  
 Yes ☐ No ☒

(5) Result N/A

(6) Date of result N/A

(c) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☒

(2) Second petition, etc. Yes ☐ No ☒

(d) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

Due to ineffective assistance of counsel who never filed a  
Notice of Appeal to appeal my sentence

12. State *concisely* every ground on which you claim that you are being held in violation of the constitution, laws or treaties of the United States. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all ground in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

(a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.

(b) Conviction obtained by use of coerced confession.

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- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: Whether Petitioner's sentence should be vacated

because it was enhanced based on facts that were not established in the plea colloquy or admitted by the Petitioner.

Supporting FACTS (state *briefly* without citing cases or law) \_\_\_\_\_

During the plea hearing Petitioner was never informed of the Aiding and Abetting elements and he never admitted to it.

B. Ground two: Petitioner's plea was involuntary and coerced in

violation of due process due to misrepresentation of counsel.

Supporting FACTS (state *briefly* without citing cases or law): After a superseding issued against Valle-Lassalle, also an indictment was issued against his mother Tomasita Lassalle and his sister Anayda Valle-Lassalle [Cr. no. 99-271-CCC]. During the plea negotiations the government offered Valle-Lassalle to recommend a lenient sentence for his mother and sister, if he plead guilty.

C. Ground three: Ineffective assistance of counsel where counsel failed to

disclose to the Court that his plea was linked to his mother and sister pleas.

Supporting FACTS (state *briefly* without citing cases or law): The transcript of the Rule 11 colloquy in this case shows no awareness by the district court of the connection between Valle-Lassalle's plea and his mother and sister's plea because the government and counsel failed to disclose to the court at the R. 11 that the pleas were linked.

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D. Ground four: Ineffective assistance of counsel because counsel failed to file a Notice of Appeal

Supporting FACTS (state *briefly* without citing cases or law): After sentencing Petitioner requested to his counsel that a notice of appeal were filed to appeal the term of his sentence and the sufficiency of the evidence at the Rule 11 and sentencing hearing. Counsel never complied with Petitioner's request and failed to file a NOA.

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them: These grounds were not presented before because, in spite of numerous letters and telephone calls to his trial counsels, he did not received a copy of his legal file or a copy of the brief that had been filed in his direct appeal. Last year (December 2004) was when he learned of his attorney's failure to appeal his sentence and the other claims of ineffective assistance.

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?  
Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing Luz M. Rios, C/Coll y Toste, Hato Rey, PR

(b) At arraignment and plea Same

(c) At trial Luz M. Rios, Jayne C. Weintraub and Eric Cohen.

(d) At sentencing Same above-mentioned

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(e) On appeal N/A(f) In any post-conviction proceeding N/A(g) On appeal from any adverse ruling in a post-conviction proceeding N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☒ No ☐(a) If so, give name and location of court which imposed sentence to be served in the future: SuperiorCourt of Ponce, Puerto Rico(b) Give date and length of the above sentence: Life

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☒ No ☐

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

Victor Valle

Signature of Attorney (if any)

Victor M. Valle-Lassalle, pro-se  
#16115-069

I declare under penalty of perjury that the foregoing is true and correct. Executed on

12/29/05

(date)

7004 2890 0002 4430 5828Victor Valle

Signature of Movant

Victor M. Valle-Lassalle, pro-se  
#16115-069